



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

MAR - 6 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7016 2070 0001 1397 4215

Ben Bethija
Dunkin' Donuts
165 Main Street
Sayville, NY 11782

Re: Request for Information Pursuant to Section 1445 of the Safe Drinking Water Act,
42 U.S.C. § 300j-4 (a)(1)(A) - Sanitary discharge system(s) at Dunkin' Donuts, 165 Main
Street, Sayville, NY 11782
Request for Information: SDWA-UIC-IR-17-019

Dear Mr. Bethija:

The U.S. Environmental Protection Agency (EPA), Region 2, is investigating a potential violation of the Safe Drinking Water Act (SDWA) involving sanitary discharge at Dunkin' Donuts, 165 Main Street, Sayville, NY 11782. As summarized below, information obtained during an Underground Injection Control (UIC) Program inspection performed on April 12, 2016, your facility is/may be operating a large-capacity cesspool.

- **Statement from Sunny Dudani, Manager, confirmed that forty (40) to fifty (50) people per day use the two (2) bathrooms in the facility.**
- **Three (3) two-foot diameter lids were noted in the rear of the building.**
- **Mr. Dudani did not provide the name and address of the property owner. On May 3, 2016 Charles Hillenbrand, EPA Inspector, spoke with business owner Ben Bethija. When Inspector Hillenbrand requested the name and address of the property owner, Mr. Bethija took Inspector Hillenbrand's name and phone number and stated that he would provide the property owner with EPA information and that the property owner would contact Inspector Hillenbrand. To date, the property owner has not contacted Inspector Hillenbrand.**

This letter is a Request for Information sent pursuant to Section 1445 of the Safe Drinking Water Act, 42 U.S.C. § 300j-4 (a)(1)(A), as described more fully below in the "Statutory Authority and Directions for Response", to aid in EPA's investigation. The specific information that EPA requests is listed in the attachment to this letter.

You are required to respond to this request within sixty (60) days of receipt of this letter as directed below.

Statutory Authority and Directions for Response

As set forth at 40 Code of Federal Regulations (C.F.R.) §§ 144.3 and 144.81, a “cesspool” is defined as a drywell that directly receives untreated sanitary waste containing human excreta, which sometimes has an open bottom and/or perforated sides; a cesspool does not utilize a septic tank to retain and treat sanitary waste. A cesspool is designated as a large-capacity cesspool (LCC) pursuant to 40 C.F.R. § 144.88, if it is used by a multiple-dwelling community or regional system, or is a non-residential cesspool that has the capacity to serve 20 or more persons a day. In 1999, EPA promulgated a regulation (Class V Rule) that banned construction of new LCCs as of April 2000 and required all existing LCCs be closed by April 2005. Operation of this injection well type constitutes noncompliance with UIC regulations.

Section 1445 of the SDWA, 42 U.S.C. § 300j-4 (a)(1)(A), provides that whenever required to carry out the objectives of the SDWA, including determining whether or not a person/agency is in violation of the SDWA, the Administrator of EPA shall require that person/agency to provide information as may reasonably be required to make such determination. Therefore, pursuant to the authority vested in the Administrator of the EPA under Section 1445 of the SDWA, 42 U.S.C. § 300j-4 (a)(1)(A), which has been duly redelegated to me, you are required to provide the information described in the attachment to this letter with sixty (60) days of receipt of this letter.

You should be aware that failure to provide the requested information or providing misleading or false information may subject you to enforcement action, including the issuance of orders against you requiring compliance, the imposition of civil or administrative penalties, or the imposition of criminal fines or penalties. The information you provide may be used by EPA in administrative, civil, or criminal proceedings (see 42 U.S.C. § 7607).

If you so desire, you may assert a business confidentiality claim covering all or part of the information being requested. The claim may be asserted by placing on (or attaching to) the information, at the time you submit it to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret”, “proprietary”, or “company confidential”. Allegedly confidential portions or otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by EPA.

If you desire confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state. Information covered by a claim of business confidentiality will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Subpart B, Part 2, Chapter I of Title 40 C.F.R. (40 C.F.R. §§ 2.201 et seq.). If no business confidentiality claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

This information is not subject to the approval requirements of the Paperwork Reduction Act of 1989, 44 U.S.C. §§ 3501 et seq.

Any documents to be submitted by you as part of this information request shall be sent by certified mail or its equivalent and shall be signed by an authorized representative of the respective entity (see 40 C.F.R. § 144.32(b)), and shall include the following certification:

“I certify, under penalty of law, that the information contained in or accompanying this submission is true, accurate and complete based upon representations as to accuracy and completeness made to me either orally or through submission of documentation by appropriate personnel with responsibility for the matters contained herein.”

All information required to be submitted pursuant to this information request shall be sent to the following address:

Nicole Foley Kraft, Acting Branch Chief
Water Compliance Branch
U.S. Environmental Protection Agency, Region 2
290 Broadway, 20th Floor
New York, New York 10007-1866
Attn: Charles Hillenbrand

If you would like to discuss this matter, please contact me directly at (212) 637- 4244. For further information or to answer specific questions please have your staff contact Charles Hillenbrand of my staff at (212) 637-3951, or have legal counsel contact Lauren Fischer, Assistant Regional Counsel, at (212) 637-3231.

Sincerely,



Nicole Foley Kraft, Acting Chief
Water Compliance Branch

Enclosure

cc: Tony Leung, NYSDEC, Region 1
Craig Knepper, PE, Suffolk County Dept. of Health Services

Tony Leung
NYSDEC, Region 1
SUNY Stony Brook, 50 Circle Rd
Stony Brook, NY 11790

Craig Knepper, PE, Chief
Office of Wastewater Management
Division of Environmental Quality
Suffolk County Dept. of Health Services
360 Yaphank Avenue, Suite 2C
Yaphank, NY 11980

